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THE HONORABLE ROSANNA MALOUF PETERSON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSHUA BRENT STULLER,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

CHELAN COUNTY, WASHINGTON;
BILL LARSEN, in his official capacity as
Interim Director of the Chelan County
Regional Justice Center; LESLIE
CARLSON, in her official capacity as the
Chelan County Regional Justice Center
Mental Health Manager, and their officers,
agents, employees, and successors,

Defendants.

NO. 2:18-cv-00178-RMP

**ANSWER AND
AFFIRMATIVE DEFENSES
TO PLAINTIFF'S FIRST
AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE
AND DECLARATORY
RELIEF FOR VIOLATIONS
OF CIVIL RIGHTS AND
DEMAND FOR JURY**

COME NOW, Defendants, above-named, (hereinafter referred to as "this
Defendant"), by and through their attorney of record, Patrick McMahon of

1 Carlson & McMahon, PLLC, and hereby submit their answer to the Plaintiff's
2 First Amended Complaint for Damages.
3

4 **I. INTRODUCTION**

5
6 1.1 This Defendant having insufficient information, knowledge or belief
7 to either admit or deny the allegations contained in Paragraph 1.1 of Plaintiff's
8 First Amended Complaint for Damages, denies all allegations contained therein.
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10 1.2 This Defendant having insufficient information, knowledge or belief
11 to either admit or deny the allegations contained in Paragraph 1.2 of Plaintiff's
12 First Amended Complaint for Damages, denies all allegations contained therein.
13

14 1.3 This Defendant admits that Defendants were acting under color of
15 state law in operating the CCRJC and implementing policies, patterns, practices,
16 and customs. However, this Defendant denies the remaining allegations
17 contained in Paragraph 1.3 of Plaintiff's First Amended Complaint for Damages.
18

19 1.4 This Defendant denies Paragraph 1.4 of Plaintiff's First Amended
20 Complaint for Damages.
21

22 1.5 This Defendant denies that Defendants were unlawful or that they
23 failed to exercise appropriate supervisory authority over the CCRJC in preventing
24 the psychological injury and deterioration of the most vulnerable in their care.
25 This Defendant having insufficient information, knowledge or belief to either
26 admit or deny the remaining allegations contained in Paragraph 1.5 of Plaintiff's
27
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29
30

1 First Amended Complaint for Damages, denies all remaining allegations
2 contained therein.
3

4 1.6 This Defendant having insufficient information, knowledge or belief
5 to either admit or deny the allegations contained in Paragraph 1.6 of Plaintiff's
6 First Amended Complaint for Damages, denies all allegations contained therein.
7

8 1.7 This Defendant having insufficient information, knowledge or belief
9 to either admit or deny the allegations contained in Paragraph 1.7 of Plaintiff's
10 First Amended Complaint for Damages, denies all allegations contained therein.
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12 1.8 This Defendant denies the allegations contained in Paragraph 1.8 of
13 Plaintiff's First Amended Complaint for Damages.
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16 II. PARTIES 17

18 A. NAMED PLAINTIFF 19

20 2.1 This Defendant admits that Plaintiff was incarcerated in CCRJC for
21 thirteen months. However, this Defendant having insufficient information,
22 knowledge or belief to either admit or deny the allegations contained in Paragraph
23 2.1 of Plaintiff's First Amended Complaint for Damages, denies all remaining
24 allegations contained therein.
25

26 2.2 This Defendant having insufficient information, knowledge or belief
27 to either admit or deny the allegations contained in Paragraph 2.2 of Plaintiff's
28 First Amended Complaint for Damages, denies all allegations contained therein.
29
30

1 **B. DEFENDANTS**

2 2.3 This Defendant admits Paragraph 2.3 of Plaintiff's First Amended
3 Complaint for Damages.

4 2.4 This Defendant admits Paragraph 2.4 of Plaintiff's First Amended
5 Complaint for Damages.

6 2.5 This Defendant having insufficient information, knowledge or belief
7 to either admit or deny the allegations contained in Paragraph 2.5 of Plaintiff's
8 First Amended Complaint for Damages, denies all allegations contained therein.

9 **III. JURISDICTION AND VENUE**

10 3.1 This Defendant admits Paragraph 3.1 of Plaintiff's First Amended
11 Complaint for Damages.

12 3.2 This Defendant admits Paragraph 3.2 of Plaintiff's First Amended
13 Complaint for Damages.

14 **IV. FACTUAL ALLEGATIONS**

15 **A. Solitary Confinement is a Form of Torture that Causes**
16 **Devastating and Permanent Damage.**

17 4.1 This Defendant having insufficient information, knowledge or belief
18 to either admit or deny the allegations contained in Paragraph 4.1 of Plaintiff's
19 First Amended Complaint for Damages, denies all allegations contained therein.

1 4.2 This Defendant having insufficient information, knowledge or belief
2
3 to either admit or deny the allegations contained in Paragraph 4.2 of Plaintiff's
4 First Amended Complaint for Damages, denies all allegations contained therein.

5 4.3 This Defendant having insufficient information, knowledge or belief
6
7 to either admit or deny the allegations contained in Paragraph 4.3 of Plaintiff's
8 First Amended Complaint for Damages, denies all allegations contained therein.

9 4.4 This Defendant having insufficient information, knowledge or belief
10
11 to either admit or deny the allegations contained in Paragraph 4.4 of Plaintiff's
12 First Amended Complaint for Damages, denies all allegations contained therein.

13 4.5 This Defendant having insufficient information, knowledge or belief
14
15 to either admit or deny the allegations contained in Paragraph 4.5 of Plaintiff's
16 First Amended Complaint for Damages, denies all allegations contained therein.

17 4.6 This Defendant having insufficient information, knowledge or belief
18
19 to either admit or deny the allegations contained in Paragraph 4.6 of Plaintiff's
20 First Amended Complaint for Damages, denies all allegations contained therein.

21 4.7 This Defendant having insufficient information, knowledge or belief
22
23 to either admit or deny the allegations contained in Paragraph 4.7 of Plaintiff's
24 First Amended Complaint for Damages, denies all allegations contained therein.

25 4.8 This Defendant having insufficient information, knowledge or belief
26
27 to either admit or deny the allegations contained in Paragraph 4.8 (a-e) of
28
29
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1 Plaintiff's First Amended Complaint for Damages, denies all allegations
2 contained therein.
3

4 4.9 This Defendant having insufficient information, knowledge or belief
5 to either admit or deny the allegations contained in Paragraph 4.9 of Plaintiff's
6 First Amended Complaint for Damages, denies all allegations contained therein.
7

8
9 **B. Defendants Have an Official Policy and Practice of Subjecting**
10 **Inmates to Solitary Confinement Based Solely on Their**
11 **Disability.**

12 4.10 This Defendant having insufficient information, knowledge or belief
13 to either admit or deny the allegations contained in Paragraph 4.10 of Plaintiff's
14 First Amended Complaint for Damages, denies all allegations contained therein.
15

16 4.11 This Defendant denies Paragraph 4.11 of Plaintiff's First Amended
17 Complaint for Damages.
18

19 4.12 This Defendant admits Paragraph 4.12 of Plaintiff's First Amended
20 Complaint for Damages.
21

22 4.13 This Defendant admits Paragraph 4.12 of Plaintiff's First Amended
23 Complaint for Damages.
24

25 4.14 This Defendant having insufficient information, knowledge or belief
26 to either admit or deny the allegations contained in Paragraph 4.14 of Plaintiff's
27 First Amended Complaint for Damages, denies all allegations contained therein.
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C. Defendants Fail to Provide Adequate Medical and Mental Health Care.

4.15 This Defendant denies Paragraph 4.15 of Plaintiff's First Amended Complaint for Damages.

4.16 This Defendant having insufficient information, knowledge or belief to either admit or deny the allegations contained in Paragraph 4.16 of Plaintiff's First Amended Complaint for Damages, denies all allegations contained therein.

4.17 This Defendant denies Paragraph 4.17 of Plaintiff's First Amended Complaint for Damages.

4.18 This Defendant denies Paragraph 4.18 of Plaintiff's First Amended Complaint for Damages.

4.19 This Defendant having insufficient information, knowledge or belief to either admit or deny the allegations contained in Paragraph 4.19 of Plaintiff's First Amended Complaint for Damages, denies all allegations contained therein.

4.20 This Defendant denies Paragraph 4.20 of Plaintiff's First Amended Complaint for Damages.

4.21 This Defendant having insufficient information, knowledge or belief to either admit or deny the allegations contained in Paragraph 4.21 of Plaintiff's First Amended Complaint for Damages, denies all allegations contained therein.

1 4.22 This Defendant having insufficient information, knowledge or belief
2
3 to either admit or deny the allegations contained in Paragraph 4.22 of Plaintiff's
4 First Amended Complaint for Damages, denies all allegations contained therein.

5 4.23 This Defendant having insufficient information, knowledge or belief
6
7 to either admit or deny the allegations contained in Paragraph 4.23 of Plaintiff's
8 First Amended Complaint for Damages, denies all allegations contained therein.

9 4.24 This Defendant denies Paragraph 4.24 of Plaintiff's First Amended
10
11 Complaint for Damages.

12 4.25 This Defendant denies Paragraph 4.25 of Plaintiff's First Amended
13
14 Complaint for Damages.

15
16 **D. Plaintiff Suffered Injury as a Result of Defendants' Actions.**

17 4.26 This Defendant admits Paragraph 4.26 of Plaintiff's First Amended
18
19 Complaint for Damages.

20 4.27 This Defendant having insufficient information, knowledge or
21
22 belief to either admit or deny the allegations contained in Paragraph 4.27 of
23 Plaintiff's First Amended Complaint for Damages, denies all allegations
24 contained therein.

25 4.28 This Defendant having insufficient information, knowledge or
26
27 belief to either admit or deny the allegations contained in Paragraph 4.28 of
28
29
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1 Plaintiff's First Amended Complaint for Damages, denies all allegations
2 contained therein.
3

4 4.29 This Defendant denies Paragraph 4.29 of Plaintiff's First Amended
5 Complaint for Damages.
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7 4.30 This Defendant denies Paragraph 4.30 of Plaintiff's First Amended
8 Complaint for Damages.
9

10 4.31 This Defendant denies Paragraph 4.31 of Plaintiff's First Amended
11 Complaint for Damages.
12

13 4.32 This Defendant having insufficient information, knowledge or
14 belief to either admit or deny the allegations contained in Paragraph 4.32 of
15 Plaintiff's First Amended Complaint for Damages, denies all allegations
16 contained therein.
17
18

19 4.33 This Defendant denies Paragraph 4.33 of Plaintiff's First Amended
20 Complaint for Damages.
21

22 4.34 This Defendant denies Paragraph 4.34 of Plaintiff's First Amended
23 Complaint for Damages.
24

25 4.35 This Defendant admits Paragraph 4.35 of Plaintiff's First Amended
26 Complaint for Damages.
27

28 4.36 This Defendant having insufficient information, knowledge or
29 belief to either admit or deny the allegations contained in Paragraph 4.36 of
30

1 Plaintiff's First Amended Complaint for Damages, denies all allegations
2 contained therein.
3

4 4.37 This Defendant denies Paragraph 4.37 of Plaintiff's First Amended
5 Complaint for Damages.
6

7 4.38 This Defendant having insufficient information, knowledge or
8 belief to either admit or deny the allegations contained in Paragraph 4.38 of
9 Plaintiff's First Amended Complaint for Damages, denies all allegations
10 contained therein.
11
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13 4.39 This Defendant having insufficient information, knowledge or
14 belief to either admit or deny the allegations contained in Paragraph 4.39 of
15 Plaintiff's First Amended Complaint for Damages, denies all allegations
16 contained therein.
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19 4.40 This Defendant having insufficient information, knowledge or
20 belief to either admit or deny the allegations contained in Paragraph 4.40 of
21 Plaintiff's First Amended Complaint for Damages, denies all allegations
22 contained therein.
23
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25 4.41 This Defendant having insufficient information, knowledge or
26 belief to either admit or deny the allegations contained in Paragraph 4.41 of
27 Plaintiff's First Amended Complaint for Damages, denies all allegations
28 contained therein.
29
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1 4.42 This Defendant having insufficient information, knowledge or
2 belief to either admit or deny the allegations contained in Paragraph 4.42 of
3 Plaintiff's First Amended Complaint for Damages, denies all allegations
4 contained therein.
5
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7 4.43 This Defendant having insufficient information, knowledge or
8 belief to either admit or deny the allegations contained in Paragraph 4.43 of
9 Plaintiff's First Amended Complaint for Damages, denies all allegations
10 contained therein.
11
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13 4.44 This Defendant having insufficient information, knowledge or
14 belief to either admit or deny the allegations contained in Paragraph 4.44 of
15 Plaintiff's First Amended Complaint for Damages, denies all allegations
16 contained therein.
17
18

19 **V. CLASS ACTION ALLEGATIONS**

20
21 5.1 This Defendant having insufficient information, knowledge or
22 belief to either admit or deny the allegations contained in Paragraph 5.1 of
23 Plaintiff's First Amended Complaint for Damages, denies all allegations
24 contained therein.
25
26

27 5.2 This Defendant denies Paragraph 5.2 of Plaintiff's First Amended
28 Complaint for Damages.
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1 5.3 This Defendant denies Paragraph 5.3 of Plaintiff's First Amended
2
3 Complaint for Damages.

4 5.4 This Defendant denies Paragraph 5.4 of Plaintiff's First Amended
5
6 Complaint for Damages.

7 5.5 This Defendant denies Paragraph 5.5 of Plaintiff's First Amended
8
9 Complaint for Damages.

10 5.6 This Defendant having insufficient information, knowledge or
11
12 belief to either admit or deny the allegations contained in Paragraph 5.6 of
13 Plaintiff's First Amended Complaint for Damages, denies all allegations
14
15 contained therein.

16 5.7 This Defendant denies Paragraph 5.7 of Plaintiff's First Amended
17
18 Complaint for Damages.

19 **VI. CAUSES OF ACTION**

20 **COUNT ONE**

21 **Violation of The Eighth Amendment to the U.S. Constitution** 22 **(42 U.S.C. § 1983)**

23 6.1 This Defendant denies Paragraph 6.1 of Plaintiff's First Amended
24
25 Complaint for Damages.

26 6.2 This Defendant admits Paragraph 6.2 of Plaintiff's First Amended
27
28 Complaint for Damages.
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1 6.11 This Defendant denies Paragraph 6.11 of Plaintiff's First Amended
2
3 Complaint for Damages.

4 6.12 This Defendant denies Paragraph 6.12 of Plaintiff's First Amended
5
6 Complaint for Damages.

7
8
COUNT THREE

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10
Violation of The Americans with Disabilities Act
(42 U.S.C. § 12132 et.seq.)

11 6.13 This Defendant admits Paragraph 6.13 of Plaintiff's First Amended
12
13 Complaint for Damages.

14 6.14 This Defendant admits Paragraph 6.14 of Plaintiff's First Amended
15
16 Complaint for Damages.

17 6.15 This Defendant having insufficient information, knowledge or
18
19 belief to either admit or deny the allegations contained in Paragraph 6.15 of
20 Plaintiff's First Amended Complaint for Damages, denies all allegations
21
22 contained therein.

23 6.16 This Defendant admits Paragraph 6.16 of Plaintiff's First Amended
24
25 Complaint for Damages.

26 6.17 This Defendant denies Paragraph 6.17 of Plaintiff's First Amended
27
28 Complaint for Damages.

COUNT FOUR

**Violation of the Rehabilitation Act
(29 U.S.C. § 794)**

6.18 This Defendant admits Paragraph 6.18 of Plaintiff's First Amended Complaint for Damages.

6.19 This Defendant admits Paragraph 6.19 of Plaintiff's First Amended Complaint for Damages.

6.20 This Defendant admits Paragraph 6.20 of Plaintiff's First Amended Complaint for Damages.

6.21 This Defendant having insufficient information, knowledge or belief to either admit or deny the allegations contained in Paragraph 6.21 of Plaintiff's First Amended Complaint for Damages, denies all allegations contained therein.

6.22 This Defendant denies Paragraph 6.22 of Plaintiff's First Amended Complaint for Damages.

VII. PRAYER FOR RELIEF

A-H This Defendant denies Paragraphs VII A through H of Plaintiff's First Amended Complaint for Damages.

AFFIRMATIVE DEFENSES

By way of further answer and affirmative defenses, this Defendant alleges the following:

I.

As a First Affirmative Defense, this Defendant alleges that Plaintiff failed to state a claim upon which relief may be granted.

II.

As a Second Affirmative Defense, this Defendant alleges that they are shielded from liability by the Doctrine of Qualified Immunity.

III.

As a Third Affirmative Defense, this Defendant alleges that Plaintiff's claims are barred by the Doctrine of Waiver.

IV.

As a Fourth Affirmative Defense, this Defendant alleges that the Plaintiff assumed the risk of harm.

V.

As a Fifth Affirmative Defense, this Defendant specifically reserves the right to add affirmative defenses, empty chair defendants, counterclaims, cross-claims, and third-party claims as they become known through the process of discovery.

JURY DEMAND

This Defendant hereby requests that this case be tried before a jury pursuant to FRCP 38.

WHEREFORE, this Defendant having fully answered the Plaintiff's First Amended Complaint for Damages and prays that the same be dismissed with prejudice and that this Defendant have and recover costs expended herein.

RESPECTFULLY SUBMITTED THIS 19th day of DECEMBER, 2018.

CARLSON & McMAHON, PLLC

By /s/ Patrick McMahon
PATRICK MCMAHON, WSBA #18809
Attorney for Defendants

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WCRP05-02450\PLE Federal\ANSWER 12-19-18

CERTIFICATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on December 19, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of Washington using the CM/ECF system which will send notification of such filing to:

Andrew S. Biviano abiviano@pt-law.com

Breean L. Beggs bbeggs@pt-law.com

Mary Elizabeth Dillon bdillon@pt-law.com

And I certify that I have mailed by United States Postal Service the foregoing to the following non CM/ECF participants:

Signed at Wenatchee, Washington on December 19, 2018.

/s/ Patrick McMahon
PATRICK MCMAHON, WSBA #18809